

Panaji, 21st August, 1997 (Sravana 30, 1919)

SERIES I No. 21



OFFICIAL GAZETTE

GOVERNMENT OF GOA

GOVERNMENT OF GOA

Goa Legislature Secretary

LA/B/2122/1997

REPORT OF THE SELECT COMMITTEE ON BILL No. 5 OF 1997.

The Goa Command Area Development Bill, 1997 alongwith the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa on 15-7-1997, is hereby published for general information in pursuance of the provisions of Rule 231 of the Rules of Procedure and Conduct of Business of Legislative Assembly.

Panaji, 12th August, 1997.

(Bill No. 5 of 1997)

A

Bill

to provide for accelerated increase in agricultural and allied production in the State of Goa, through a programme of comprehensive and systematic development of command areas on scientific and modern lines, comprising measures for optimum use of land and water, prevention of land erosion and water logging, improvement of soil fertility and regulation of cropping pattern, and for proper maintenance and up-keep of irrigation systems in the State of Goa for ensuring maximum benefits to the cultivators under the command areas and for matters connected therewith.

Composition of the Select Committee

CHAIRMAN

1. Shri D. G. Narvekar - Minister for Irrigation

MEMBERS

1. Shri Pandu Vassu Naik, M. L. A.
2. Shri Krishna Kuttikar, M. L. A.
3. Shri Prakash Velip, M. L. A.
4. Shri Sadanand Malik, M. L. A.
5. Shri Narahari Haldankar, M. L. A.
6. Shri Arecio D'Souza, M. L. A.
7. Shri Antonio Gaonkar, M. L. A.

Secretariat

1. Shri Ashok B. Ulman, Secretary Legislature.
2. Shri U. M. Desai, Under Secretary Legislature.
3. Shri Sudhir Narvekar, Section Officer, Legislature.
4. Smt. Celiza Fernandes, Sr. Asstt. Legislature.

Government Representatives

1. Shri B. S. Subhana - Law Secretary.
2. Shri R. C. Dharwad - Chief Engineer, Irrigation.
3. Shri K. G. Sharma - Director Agriculture.
4. Shri P. V. Kadnekar - Jt. Secretary Law.

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which Bill No. 5 of 1997 — The Goa Command Area Development Bill, 1997 was referred, having been authorised by the Committee to submit the report on its behalf present its report with the Bill as amended by the Committee annexed hereto.

The Bill was introduced in the legislative Assembly on 17th March, 1997 and was referred to the Select Committee on 20th March, 1997.

The Committee held its meeting on 30th April, 1997 and on 4th June, 1997. No suggestions/comments from the public Institutions/Associations on the Bill were received although the press note inviting suggestions/comments was issued in the newspapers.

The Committee while analysing the Bill clause by clause recommended the following amendments/suggestions after the discussion in detail with the Members of the Committee and the Officers.

1. Clause 2

In Clause 2 (13) the words "1.5 cusec discharge or" proposed for deletion and to add the words and figure "or 42 litres per second" at the end after the words and figures "0.042 cumec discharge".

2. Clause 4

In Clause 4 after sub item (xix) it is proposed to add item (xx) to include Director of Land Survey in the constitution of Command Area Development Board.

3. Clause 14

In Clause 14 (5) six months period has been proposed for payment of compensation on account of damage if any caused to the effected person in the process of survey, inspection, investigation etc.

4. Clause 15

It was agreed in the meeting to add the sub clause (3) for disqualification of the candidates or members of certain categories for being chosen as or for being Chairman, or President or a member of a Managing Committee of any water distribution Co-operative Society who are the Officer or servant of the Government of India or the Government or any State Government or of a local authority or an employee of any institution receiving aid from the funds of the Government.

5. Clause 27

Under the Clause 27, two provisions have been provided so that the land holder is permitted to change the raising of kind of crops on an application made to the Command Area Development Board and further such change is proposed to be permitted for the entire holding of the land holder under the said irrigation system.

6. Clause 30

In Clause 30 the Committee recommended for the imposition of fine, twice the amounts indicated in the Table if the land holder fails to cultivate such land for further period of two consecutive years. So also it was recommended by the Committee for taking over the management of land, by the Command Area Development Board on such terms and conditions to be prescribed if the land holder fails to cultivate the land for a period of 5 consecutive years. Accordingly the Proviso under Clause 30 sub clause (3) are added.

Certain changes have been proposed in the Table indicating the rates for imposition of fines as follows:

The words "Rice Land" are substituted by "Rice/Cereals Land". "Rs. 3400" substituted by "Rs. 1500".

General recommendations:

1. The Committee also learnt that there is reluctance and non-operation to pay water charges. The Committee is of the opinion that the recovery position can be improved if the co-operative Societies are formed for the purpose. It is therefore, felt that the Co-operative movement needs to be further strengthened, so that entire area can be covered with 100% Co-operative Societies instead of present 50% (The Committee was informed that at present there are 39 Co-operative Societies of the farmers).

2. In the State of Goa there is limited agricultural land and there is a need to see that agriculture becomes economically viable. The Committee recommends that suitable legislation be enacted to prevent fragmentation or land holdings.

(NOTE.— *Deletions made by the Select Committee are shown in square brackets and additions and substitutions made are underlined*)

**THE GOA COMMAND AREA DEVELOPMENT
BILL, 1997**

(Bill No. 5 of 1997)

A

BILL

to provide for accelerated increase in agricultural and allied production in the State of Goa, through a programme of comprehensive and systematic development of command areas on scientific and modern lines, comprising measures for optimum use of land and water, prevention of land erosion and water logging, improvement of soil fertility and regulation of cropping pattern, and for proper maintenance and up-keep of irrigation systems in the State of Goa for ensuring maximum benefits to the cultivators under the command areas and for matters connected therewith.

Be it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:-

CHAPTER - I

1. *Short title, extent and commencement.* — (1) This Act may be called the Goa Command Area Development Act, 1997.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas of the State of Goa.

2. Definitions. — In this Act, unless the context otherwise requires,—

(1) “Command area” means an area irrigated or capable of being irrigated either by gravitational flow or by lift irrigation or by any other method, under any major or medium irrigation system, project, to be specified by notification by CAD Board;

(2) “Command area development work” means any work undertaken under this Act;

(3) “Comprehensive command area development” includes:-

(a) systematic land development for conservation of land and water;

(b) water use management for optimum use of water, including irrigation by turns, volumetric measurement of water and other enabling measures to avoid waste, water logging, salinity, alkalinity and the like;

(c) conjunctive use of surface and ground water for multiple cropping and proper utilisation of available water resources;

(d) regulation, maintenance and repairs of irrigation systems;

(e) bringing the land records upto date for consolidation of land holdings, land survey and mapping;

(f) realignment of field boundaries and consolidation of land holdings under a pipe outlet or under an adjacent pipe outlet, for efficient farm management;

(g) grouping of small holding in a contiguous area nearer the outlet and larger ones further away;

(h) all round development of the farms in the areas pertaining to agriculture, horticulture, sericulture, farm forestry, animal husbandry, fisheries, communication, agro-based industry and co-operation;

(4) “Command Area Development Board” or CAD Board means a statutory body constituted under section 3 of the Act;

(5) “Chairman” means the Chairman of the Command Area Development Board, unless and otherwise specified/referred as Chairman(s) of any other Body, Institution, Corporation, etc. under this Act;

(6) “Credit Incharge” means an Officer of the rank of Assistant Registrar of Co-operative Societies of the office of the Registrar of Co-operative Societies on deputation to CAD Board;

(7) “Deputy Director of Agriculture” means an Officer of CAD Board not below the rank of a Deputy Director of Agriculture of Agriculture Department deputed to the CAD Board;

(8) “distribution system” includes:-

(a) all main canals, branch, distributaries, minor canals and water courses constructed for the supply and distribution of water for irrigation;

(b) all works, structures and appliances connected with the distribution of water for irrigation;

(c) all field channels and farm channels and related structures under a pipe outlet;

(9) "drainage system" includes:—

- (a) channels, either natural or artificial, for the discharge of waste or surplus water and all works connected therewith or ancillary thereto;
- (b) escape channels from an irrigation or distribution system and other works connected therewith but does not include works for removal of sewage;
- (c) all connecting drains and main drains to drain off surplus water from field drains;
- (d) all field drains and related structures under pipe outlet;

(10) "Executive Engineer/Canal Officer" means an Officer of the rank of Executive Engineer of a Works Division of Irrigation Department on deputation to CAD Board with all powers as delegated to the Officer of equivalent rank in Irrigation Department and in addition the powers of Canal Officer empowered by the Goa, Daman and Diu Irrigation Act, 1973 (Act 17 of 1973);

(11) "farm road" means a road serving lands under a pipe outlet;

(12) "financing agency" means any commercial bank or any co-operative society, including a co-operative agricultural development bank, the main object of which is to lend money or any Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976); and includes any other agency selected for providing credit facility for comprehensive command area development;

(13) "field channel"/"water course" means a channel constructed or to be constructed by the Government or by the land holder or by any other agency to receive and distribute water from a pipe outlet and having capacity not exceeding [1.5 cusec discharge or] 0.042 cumec. discharge or 42 litres per second;

(14) "field drain" means a channel excavated and maintained by the land holder or by any other agency on his behalf to discharge waste or surplus water from the land holding under a pipe outlet; and includes drains, escape channels and other similar works constructed or to be constructed and maintained by the owners or occupiers or by the Government;

(15) "Government" means the Government of the State of Goa;

(16) "Ineligible person" means a person not eligible for ordinary land development loans and belonging to one of the following categories, namely:-

- (i) Farmers occupying the lands without any valid title to mortgage such lands;
- (ii) minors without guardians;
- (iii) Farmers occupying the Government land which have not been assigned to them, or Government lands assigned but which revert to the Government in case the assignee mortgages the same;
- (iv) Land holders unable to get loan from any credit agency because of overdues which are to be cleared before obtaining any loan for further capital investment; and
- (v) Farmers who are unwilling to apply for land development loans;

(17) "Input and Extension In-charge", "Soil Survey Incharge" and "Water Management Specialist" mean the Officers of the rank of Agriculture Officers (Grade I) of Agriculture Department on deputation to (Office of) the CAD Board;

(18) "Irrigated dry land" or "irrigated land" means localised for light irrigation of crops, other than paddy, sugarcane and banana;

(19) "Irrigation Officer" in relation to a command area means an Officer of the Revenue Department not below the rank of the Revenue Sub-Divisional Officer having jurisdiction over such area or an Officer of the Command Area Development Board not below the rank of an Assistant Engineer, exercising control over the irrigation system in the command area and includes any other officer appointed by the Government to perform the functions of an Irrigation Officer under this Act;

(20) "Irrigation system" includes—

- (a) the distribution system; and
- (b) the drainage system;

(21) "irrigation system under a pipe outlet" includes the field channels and field drains, with all the related structures including roads thereto;

(22) "land holder" means a person in actual possession of the land, whether as an owner or as a tenant or sub-tenant or as a mortgagee in possession or as a licensee, or otherwise and includes a person who is likely to be benefitted by the Command Area development area work, and the expression "Land holding" shall be construed as land held by a land holder;

(23) "Member" means the member of the Command Area Development Board, unless and otherwise specified/referred as member of any other body, institution, corporation, etc. under this Act;

(24) "Notification" means a Notification published in the Goa State Gazette and the expression "notified" shall be construed accordingly;

(25) "pipe outlet" means an opening or contrivance constructed by the State Government in an irrigation system through which water is delivered for irrigation at the periphery of the localised area ordinarily not exceeding 40 hectares;

(26) "prescribed" means prescribed by rules made this Act;

(27) "Scheduled Castes" and "Scheduled Tribes" shall have the same meaning as assigned to them in the Constitution;

(28) "Small farmer" means a person who holds, whether as owner, tenant or mortgagee with possession or partly in one capacity or partly in another capacity a land, as defined for the purpose of availing benefits of RDA Schemes in Goa;

(29) "Superintending Engineer CAD" means an Officer of the rank of Superintending Engineer of Irrigation Department on deputation to CAD Board, with all powers as delegated to the officer of equivalent rank in Irrigation Department;

(30) "systematic land development" includes all or any of the following works:—

- (a) construction of field channels and water courses with related structures;
- (b) construction of field drains with related structures;
- (c) land shaping, including grading levelling, bunding and the like;
- (d) realignment of field boundaries and rectangularisation of plots and consolidation of land holding under a pipe outlet, or under an adjacent pipe outlet, wherever necessary, for efficient farm management;
- (e) lining of field channels, wherever necessary, with suitable material to prevent seepage of water;
- (f) construction of farm roads with related structures;

(31) "Water Distribution Co-operative Society" also called as "Pani Vantap Vyavstha Sahakari Saunstha Maryadit" means co-operative society of farmers of command area of any irrigation project formed at a hydraulic Unit like water course(s) and registered under the relevant Co-operative Societies Act, for the purpose of efficient water management and implementation of CAD programmes;

(32) "wet land" means land localised for heavy irrigation crops, like paddy, sugarcane and banana.

Chapter - II

3. *Constitution of CAD Board.*— (1) As soon as may be after the commencement of this Act, the Government may, by notification in the Official Gazette, constitute one or more Command Area Development Boards (hereinafter called the 'CAD Boards') for the command area of each major and medium irrigation projects in the State of Goa. Such Board(s) shall have autonomy in administrative and financial matters.

(2) The Command Area Development Board shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(3) The CAD Board shall be named as "Command Area Development Board".

4. *Composition of the Command Area Development Board.*—

The Command Area Development Board shall comprise of the following members, namely—

(i) The Minister in-charge of Command Area Development Programme/Irrigation of the Government of Goa—Chairman;

(ii) The concerned Members of the Legislative Assembly and Parliament, as members of the Command Area Development Board;

(iii) The Secretary, CAD/Irrigation as Chief Executive of the of the CAD Boards;

(iv) the Secretary, Finance or his representative not below the rank of joint Secretary, Finance, as member;

(v) the Chief Engineer, Irrigation, Government of Goa, as Member;

(vi) The Superintending Engineer, Command Area Development Board, as Member-Secretary;

(vii) The Director of Agriculture, member;

(viii) the Registrar of Co-operative Societies, Member;

(ix) the Director of I.C.A.R., Member;

(x) The Director of Veterinary Services, Member;

(xi) the Sr. hydrogeologist, Ground Water Cell, Member;

(xii) the [Chairman cum Managing Director], Chairperson of Goa Horticulture Development Corporation, Member;

(xiii) One Deputy Collector (Revenue) having jurisdiction in the Command Area of respective CAD Board, as Member;

(xiv) One representative of the Government of India to be nominated by the Ministry of Water Resources, as member;

(xv) Four elected representatives of Panchayat Raj Institution within by Command Area of CAD Board, to be nominated by the Government as Members;

(xvi) Seven Chairman of Registered Water Distribution Co-operative Societies, formed within the jurisdiction of Command Area of CAD Board, to be nominated by the Government as Members;

(xvii) Two representatives from NGOs, to be nominated by the Government as Members;

(xviii) One academician to be nominated by the Government, as Member;

(xix) five progressive farmers of the respective Command Area to be nominated by the Government as Member;

(xx) The Director of Land Survey.

5. Disqualification for the membership of the Command Area Development Board.— A person shall be disqualified for being nominated as, and for being, a member of the Command Area Development Board, if he,—

(a) had been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or

(b) is of unsound mind and is so declared by a competent court, or

(c) is an undischarged insolvent, or

(d) has been removed or dismissed from the service of the Central Government or the State Government or a Corporation owned or controlled by the Central Government or the State Government or from the membership of the Command Area Development Board; or

(e) has directly or indirectly, by himself or by his partner, any share or interest in any work done by the order of the Command Area Development Board or in any contract or employment with or under or by or on behalf of the Command Area Development Board; or

(f) is employed as a legal practitioner on behalf of the Command Area Development Board accepts employment as legal practitioner against the Command Area Development Board.

6. Term of Office.— (1) The Chairman shall hold the office of Command Area Development Board as long as he holds the Office of Minister for Irrigation/CAD, Government of Goa. No sooner he relinquishes the Office of the Minister for Irrigation/CAD, he shall automatically cease to be the Chairman of the Command Area Development Board and under such circumstances, the Chief Executive of the Board shall officiate.

(2) The terms of the concerned Members of the Legislative Assembly and Parliament as Members of the Command Area Development Board shall be for a period of 5 years or so long as they continue to be the MLAs or MPs of the concerned area, whichever is earlier.

(3) Elected representatives of Panchayat Raj Institutions shall continue to be the Member/s for a maximum period of 5 years or so long as they continue to be members of Panchayat Raj Institution, whichever is less.

(4) Chairman of registered water distribution co-operative societies shall continue to be the Member of the Board as long as he holds the office of Chairman of such society or for a period of 5 years, whichever is less.

(5) The terms of the nominated representatives from NOGs, academician and the progressive farmers shall be for 5 years.

7. *Casual vacancies.*— Any casual vacancy caused by the resignation of a member or by any other reason may be filled by the Government by nomination, and such person shall hold the Office of the remaining period for which the member in whose place he is nominated would have held office.

8. *Meetings of the Command Area Development Board.*— (1) The Command Area Development Board shall meet at least once in three months generally in the Secretariat of the Government or at such other place as decided by the Chairman of the CAD Board and observe such rules of procedure in regard to the transaction of business at its meeting as may be provided by regulations.

(2) The Chairman or in his absence any members chosen by the members present from among any themselves shall preside at a meeting of the Command Area Development Boards.

(3) If any Government Officer of Command Area Development Board is unable to attend any meeting of the Command Area Development Board, he may, under intimation to the Chairman, authorise his immediate sub-ordinate Officer in writing, to attend the same on his behalf.

(4) All questions/issues at a meeting of the Command Area Development Board shall be decided by the majority of votes of the members present and in the event of equality of votes, the Chairman shall have a casting vote.

(5) Quorum for a meeting of the Command Area Development Board shall be minimum of 50% of total strength.

9. *Composition of CAD Circle and its Divisions.*— For the purpose of discharge of duties and functions of the Command Area Development Board as specified in section 10 of the Act, following staff of the Irrigation, Agriculture, Co-operative and Accounts Department of the Government of Goa, shall be deputed to the CAD Office of the Command Area Development Board. It will function as one of the Circle of Irrigation Department so far as technical control is concerned. The Superintending Engineer CAD will be reporting to the Chief Executive of the Command Area Development Board through the Chief Engineer, Irrigation Department.

(1) A Superintending Engineer with full staff strength of a Circle office of the Irrigation Department alongwith one or more Deputy Director of Agriculture and three or more Agriculture Officers, Grade I, one or more Officer, of the rank of Asst. Registrar of Co-operative Societies, one or more Accounts Officer, will be deputed from respective Departments. This will be called CAD Board Circle Office.

(2) Three or more Executive Engineers with full divisional component Sub-Divisional Staff of Irrigation Department i. e. one Division each for S. I. P., T. J. P. and A. I. P., all on deputation from Irrigation Department will work under the above said Circle Office of Command Area Development Board. These Divisions will be called CAD Divisions.

(3) Agriculture Foremen to be appointed by the Command Area Development Board as per the requirement.

CHAPTER III

10. *Functions of the Command Area Development Board.*— The Command Area Development Board shall supplant the existing CAD Authority. The functions of the Command Area Development Board shall be as follows:—

- (i) To lay down policy guideline for the implementation of CAD Programme;
- (ii) To disburse Central assistance and the Governments' share to Water Distribution Co-operative Societies for the works entrusted to them;

- (iii) To provide technical assistance and guidance to Farmers' Associations, Water Distribution co-operative Societies;
- (iv) To coordinate the activities of different departments involved in the implementation of CAD Programme;
- (v) To maintain the accounts of amounts disbursed and to give utilisation certificate to the Government and the Union Government;
- (vi) To guide supervise and monitor the work of Water Distribution Co-operative Societies;
- (vii) To develop ground water to supplement surface irrigation;
- (viii) To help the Farmers' Associations, Water Distribution Co-operative Societies in selection and introduction of suitable cropping pattern;
- (ix) Carry out soil survey and prepare Geographical Information System;
- (x) To develop marketing and processing facilities and communications;
- (xi) To organise annual agricultural fairs, seminars and workshops and exhibitions, etc. to motivate the farmers;
- (xii) To diversify agriculture and develop activities like animal husbandry, farming, poultry, etc;
- (xiii) To carry out assessment and reclamation of waterlogged areas;
- (xiv) To act as a catalyst for formation of Water Distribution Co-operative Societies;
- (xv) To determine the payment of compensation to the affected persons as provided in sub-section (4) of section 16 of this Act, through the CAD Circle Office;
- (xvi) To carry out on farm development works which includes construction of water courses, field channel, warabandhi, land levelling and shaping, scientific crop planning suitable to local soil and climatic condition;
- (xvii) Providing extension facilities like demonstration on farmers field and training of farmers;
- (xviii) To propose and initiate the work of realignment of field boundaries and or consolidation of holdings and get the same carried out by the authorities concerned within the framework of the provisions of the Goa Land Revenue Code, 1968 (9 of 1969) and the rules made thereunder, to facilitate the viable units/holdings for economic and efficient water management.

CHAPTER - IV

11. *Duties of C. A. D. Circle and its Divisions.* — The duties of the C. A. D. Circle and its Divisions shall be as follows:—

- (i) Assuming responsibility for formation of Water Distribution Co-operative Societies;
- (ii) Disbursement of fund to Water Distribution Co-operative societies as received from the Government and Union Government;
- (iii) Providing technical assistance to Water Distribution Co-operative Societies;
- (iv) Maintenance of the accounts;
- (v) Maintenance of register of all agreements entered into between CAD establishment and Water Distribution Co-operative Societies;

- (vi) Training of farmers to form Associations/Societies;
- (vii) Giving utilisation certificate of grants received from Union Government;
- (viii) recommend simultaneously for amendment to the relevant Irrigation Act to provide for water distribution co-operative societies and takeover of the system (participatory irrigation management);
- (ix) Hand over the system ceremoniously to Water Distribution Co-operative Societies. The advantage of ceremonial transfer is that all the farmers in the jurisdiction of the Water Distribution Co-operative Societies would come to know about it;
- (x) Initiate Action Research Programme for one project in the State where transfer process could be scaled up to distributary branch level;
- (xi) Entering into agreement with Water Distribution Co-operative Societies;
- (xii) Supply of water to Water Distribution co-operative Societies (W.D.C.S.) as per agreement;
- (xiii) Providing maintenance grants to Water Distribution Co-operative Societies. The amount given by the Government to CAD Board for maintenance of tertiary system should be passed on to the Water Distribution Co-operative Societies;
- (xiv) Construction and maintenance of the system down to minor/water course level to carry the designed supply;
- (xv) to carry out on farm development works including water courses, field channels, warabandhi, land levelling and shaping, scientific crop planning suitable for local soil and climatic condition.
- (xvi) Providing extension facilities like demonstration on farmers field and training of farmers;
- (xvii) Maintenance of the equipments for measuring the supply of water at the off take of minor/water course;
- (xviii) Preparation of bills seasonwise and send to Water Distribution Co-operative Societies for payment;
- (xix) Recovery of water fees from the Water Distribution Co-operative Societies/ Farmers and credit the same to Government treasury from time to time.

12. *Duties of Water Distribution Co-operative Societies.* — The following shall be the duties of the Water Distribution Co-operative Societies, namely:-

- (i) Establishment and updating register of members;
- (ii) Preparation of Cropping Plan in consultation with Agriculture Officials of C.A.D.A. at the beginning of irrigation season;
- (iii) Receiving water in bulk on volumetric basis or area-crop basis from C.A.D.A.;
- (iv) Payment of water fees to Command Area Development Board;
- (v) Delivering water to the registered members;
- (vi) Arranging supply of water to non-members at differential rate;
- (vii) Taking the execution of works of Water Courses and field channels of capacity not exceeding [1.50 cusec], 0.042 cumec discharge or 42 litres per second.

Implementation of Warabandi, Agriculture demonstration and maintenance of accounts and submission of accounts to Command Area Development Boards regularly;

- (viii) Operation and maintenance of the infrastructure transferred to them;
- (ix) Maintenance of water accounts;
- (x) Recovering of water rates from the farmers in its jurisdiction;
- (xi) Educating of farmers in applying new technology.

13. *Duties of each member of the Water Distribution Co-operative Societies.* — Each member of the Water Distribution Co-operative Society shall perform the following duties, namely:—

- (i) Submission of cropping plan at the beginning of season of Water Distribution Co-operative Societies, and applying for irrigation water;
- (ii) Participation in election of officials of Water Distribution Co-operative Societies;
- (iii) Payment of dues of water rates;
- (iv) Abiding by bye-laws of Association/Society;
- (v) Usage of water efficiently;
- (vi) Ensuring that no damage is caused to irrigation structure;
- (vii) To use water for irrigation economically and without wastage by adopting such techniques and regime as may be prescribed by the C.A.D. Authority.
- (viii) Obligation of the land holder to take steps to maximise production from his land by adopting such scientific and modern techniques of farm management as may be notified, from time to time, by such authority, as may be prescribed under this Act;
- (ix) to take such precautionary and preventive measures by land holder as may be necessary so as not to cause damage to the adjacent land holdings.

CHAPTER - V

14. *Formation of units and power of Command Area Development Board to specify Command Areas for comprehensive land development.* — (1) All lands comprising the Command Area under one or more pipe outlet shall form into a single unit for the purpose of:—

- (i) Comprehensive land development;
 - (ii) Maintenance and upkeep of irrigation system.
- (2) The Command Area Development Board may, by notification, specify the command areas under its jurisdiction in which all or any of the works under comprehensive land development shall be taken up in one or more instalments and also specify the officers for command area development work in such command area.
- (3) Whenever it appears to the Command Area Development Board that the systematic land development including construction of related structures is expedient for the supply of water to the lands immediately after or simultaneously with the availability of water in the main irrigation system, the Command Area Development Board may, by notification, declare the command area under an irrigation system, or project or source for the purpose of applying the provisions of this section.

(4) On the issue of the notification, the Canal Officer or any official authorised by him, shall have power to—

- (a) enter upon any land and make survey of such land to determine the most suitable alignment for the construction of necessary structures so as to convey water to every land under a pipe outlet and mark out the land which, in his opinion, is necessary for the construction of such structures;
- (b) enter upon any land in the command area of an irrigation system or lands adjacent thereto and undertake survey or take levels thereon for preparing a Scheme for comprehensive land development;
- (c) dig and bore into the top soil or sub-soil and collect soil samples for the purpose of technical investigation without causing any loss or damage to the structure, tree or crops standing thereon and any hole or pit caused thereon shall be made good by the Canal Officer or any Official authorised by him;
- (d) make and set up suitable land marks, and level marks for the said purpose;
- (e) do all other acts necessary for the proper conduct of any inquiry or investigation relating to any existing or proposed Scheme for comprehensive command area development;
- (f) enter upon any land or building and clear obstructions such as shrubs and bushes and other obstructions for the purpose of regulating the use of water supplied or inspection or measurement of the lands irrigated thereby and of doing all things necessary for the proper regulation and management of land and water;

Provided that if the Canal Officer or any other person authorised in this behalf proposes to enter into any building or any enclosed courtyard attached to a dwelling house, he shall give the occupier of such building or courtyard at least a day's notice in writing of his intention to do so, if the occupier denies entry on oral request.

(5) The Canal Officer shall ensure that no loss or any damage is caused in the process of survey, inspection, investigation or any of his other acts in the lawful discharge of his duties. However, if any damage or loss is caused, then, on the written request of the affected person, a suitable compensation shall be determined by the Superintending Engineer, CAD, whose decision shall be final in this regard and binding on the parties concerned and the Canal Officer shall pay the compensation within a period of six months from the date of such decision accordingly.

15. Formation and registration of water distribution co-operative societies.—(1) When the Command area having not less than 100 hectares in area or less, as may be approved by CAD Board under a single hydraulic or more Unit(s) is identified, the farmers/beneficiaries of that Command Area shall be advised to form water distribution co-operative society by the concerned Canal Officer. Then, the Canal Officer shall supply the list of such farmers and the Command area map of that unit to the Credit-In-Charge, who in turn shall take up the job of conducting a meeting of farmers/beneficiaries, forming of society, preparation of feasibility report and making all other necessary formalities. Then, the Superintending Engineer, Command Area Development Board Circle, shall recommend to the Registrar of Co-operative Societies to register the society. The Credit-In-Charge shall follow up the process with the Registrar of Co-operative Societies and get the Society registered.

(2) As soon as the society is registered, the concerned Canal Officer shall hand over the existing water distribution system by executing the approved agreement with the Chairman of the society. The Central and State assistance shall be released to the society for performing its functions. The Credit-In-Charge shall render all necessary guidance to the society in performing its functions and duties and ensure the smooth functioning as stipulated in the Co-operative Societies Act or this Act.

(3) No Officer or servant of the Government of India or the Government or any State Government or of a local authority or an employee of any institution receiving aid from the funds of the Government shall be qualified for being chosen as or for being a Chairman, or president or a member of a managing committee of any water distribution Co-operative society.

CHAPTER - VI

16. Preparation of the Schemes.— (1) The Command Area Development Board shall prepare a Scheme for the comprehensive development of the Command Area or any phase of it generally in accordance with the Command Area Development Schemes as laid down as per guidelines issued by the Government of India, Ministry of Water Resources. Only in such cases, where the local climatic, soil and other conditions demand any modification, the Command Area Development Board shall make such modification as may be necessary.

(2) Any Scheme so prepared shall, amongst others, set out the following, namely:—

- (a) area proposed to be covered under the Scheme;
- (b) the work or works to be executed;
- (c) the phasing of the Scheme, both areawise and workwise;
- (d) the sketch plan of the area proposed to be covered under the Scheme;
- (e) the reallocation or the realignment, if any, of a pipe outlet or the existing irrigation system;
- (f) the survey numbers covered;
- (g) field boundaries as existing and as proposed;
- (h) the compensation to be given to or recovered from the land-holders or Water Distribution Co-operative Societies, as the case may be;
- (i) the cost involved in the Scheme as well as in each phase thereof;
- (j) the charges or dues to be levied on the beneficiaries; and
- (k) such other matters and particulars as may be prescribed.

(3) The Command Area Development Board shall also, from time to time, make and take up any new or additional Schemes in the Command Area.

(4) The Scheme shall provide for the payment of compensation to any affected land holder for the reduction in the extent of his holding under the above Scheme and for recovery of compensation from any other land holder who is benefitted in getting more extent of land under the Scheme. The amount of compensation shall be determined so far as practicable in accordance with the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894):

Provided that nothing in sub-section (4) shall preclude the determination of the amount of compensation by agreement with the benefitted and affected land-holders and thereupon the amount so determined shall be the amount payable to such affected land-holder.

17. Procedure on completion of preparation of the Scheme.— (1) When a development Scheme has been prepared, except in case of construction of field channels, the CAD Board shall, by notification, publish the same in the Official Gazette inviting objections and suggestions, if any, from all persons likely to be affected thereby, within thirty days from the date of such publication in the Official Gazette.

(2) The notification shall also be published in the village chavadies, the notice boards of the office of the concerned village panchayats, the notice boards of the concerned taluka offices and the offices of the District Collector within whose jurisdiction the lands proposed to be included in the Scheme are situated.

18. Sanction of the Scheme.— (1) After the publication of the Scheme as aforesaid and after considering the objections, if any, received in respect thereof, the CAD Board shall, after making such modifications therein as it deems necessary, sanction the Scheme.

(2) The Scheme as sanctioned under sub-section (1), shall be notified in the Official Gazette and shall be published in the manner specified in sub-section (2) of section 17.

19. *Consequences of notification.*—Upon the sanction of the Scheme or any phase thereof by the Command Area Development Board under section 18 (hereinafter called as the ‘approved Scheme’), the following consequences shall ensue, namely:—

(1) The Command Area Development Board may require any department of the Government, any statutory or corporate body controlled by the Government functioning within the area of operation of the approved Scheme to follow such directions in respect of such matters as are specified in the approved Scheme.

(2) All development plans relating to land development drawn by any department of the Government or any local or statutory authority or body, or any corporation controlled by the Government shall be intimated to the CAD Board and shall be executed with its approval and subject to such modifications or changes, if any, as the CAD Board may suggest and also subject to such directions as the CAD Board may give.

(3) The Command Area Development Board shall be empowered to take all necessary action for the implementation of the approved Scheme including levy of cost of works and other charges and to give directions to land holders with regard to the following matters, namely:—

- (a) the crops which are to be raised and the rotation of such crops;
- (b) provision for drainage in the farm;
- (c) distance of wells, tube-wells, pumps and other sources of irrigation from the distribution system;
- (d) erection and removal of fences over lands;
- (e) submission of returns within such time and in such manner as may be provided by regulations containing a true and accurate statement regarding the following matters, namely:—

- (i) area of land cultivated by him, the classification of such land, his interest therein and encumbrances on such land, if any;
- (ii) the nature and quantity of agricultural produce raised by him;

(f) Such other matters as may be specified by regulations.

20. *Execution of the Scheme.*—(1) Upon the sanction of the Scheme, the Command Area Development Board may execute the same through such agency as it deems fit, except such Schemes which are to be executed by the Water Distribution Co-operative Societies as specified under section 12 (vii) of this Act. However, in the area where no such Water Distribution Co-operative Societies are in existence, the CAD Board may execute these works also through such agency as it deems fit.

(2) In order to provide for the physical planning for the purpose of effective water management and economically viable crop production in a block of field, the Command Area Development Board, if and, wherever found necessary, shall propose the realignment of boundaries and consolidation of small and fragmented holdings and get the same carried out within the frame-work of the Goa Land Revenue Code, 1968 (9 of 1969) and the rules made thereunder.

CHAPTER - VII

21. *Regulation of irrigation and water use management and power of Canal Officer to regulate irrigation system*— The Canal Officer shall, having regard to the

availability of water and other factors, have power to regulate the supply of water from an irrigation system upto and below a pipe-outlet and specify:—

- (a) the time for letting out water for irrigation;
- (b) the duration of supply;
- (c) the quantity of supply; and
- (d) the different areas to be supplied at different times.

Explanation:— Water shall be deemed to have been supplied, if it is made available, at the pipe-outlet, whether or not it is used for irrigation of land under a pipe-outlet and therefore chargeable at the normal rate.

22. *Liability for unlawful use of water or when water runs to waste.*— (1) If water supplied from an irrigation system is put to unauthorised or unlawful use, the person by whose act or negligence such use has occurred, or if such a person cannot be identified, the person or all the persons or through whose land water has flowed and the land is benefitted therefrom, or the person or all the persons chargeable in respect of the water supplied from such irrigation system, or the Water Distribution Co-operative Society under whose jurisdiction such unauthorised or unlawful use of water has occurred, shall be liable, severally or jointly, as the case may be, for the imposition of such charge as may be levied by the Canal Officer or any other authority thereof or under the relevant law for the time being in force.

Explanation:— For the purpose of this section, the use of water for irrigating an area in the following manner shall constitute unauthorised or unlawful use, namely:—

- (i) When an area is not localised under an irrigation system;
- (ii) When an area which is localised as irrigated dry, is irrigated as wet;
- (iii) When an area localised for a single crop is irrigated for a double crop;
- (iv) When an area which is localised for one particular season is irrigated in the season for which it is not so localised;
- (v) When an area is irrigated unauthorisedly by breaching or cross bunding an irrigation system;
- (vi) When an area is irrigated by pumping water without prior permission of the Canal Officer;
- (vii) When an area is irrigated with a crop in contravention of cropping pattern specified under section 27 of this Act;
- (viii) When an area is irrigated otherwise than in accordance with the schedule of water allocation prepared by the prescribed authority indicating the day, time and duration of supply for which any person is entitled to receive water.

(2) Where water supplied through a field channel is allowed by any person to run to waste, the person by whose act or negligence such water was allowed to run to waste, or if, after inquiry such person cannot be found, the person or all the persons chargeable or the Water Distribution Co-operative Society in respect of the water supplied from such irrigation system, shall be liable, severally or jointly, as the case may be, for the imposition of a charge which shall be made in the prescribed manner in respect of the water so wasted.

(3) The levy of charges for unauthorised or unlawful use of or wastage of water shall not be a bar for launching prosecution for any offence connected with such use or waste.

(4) All charges for the unauthorised or unlawful use or for waste of water may be recovered as water rates, in addition to any penalties imposed on account of such use or waste of water.

(5) Any question arising under this section shall be decided by the Canal Officer and any person aggrieved by the order of the Canal Officer may prefer an appeal to the Superintending Engineer, Command Area Development Board, within fifteen days from the date of making of the order and the decision of the Superintending Engineer, C.A.D. Board, shall be binding on both the parties.

23. *Stoppage of water supply.*—(1) It shall be lawful for the Government or Canal Officer or any Officer authorised by them in this behalf, to stop the supply of water to any Water Distribution Co-operative Society, to any land holding or field channel or to any person who is entitled to such supply under all or any of the following circumstances; namely:—

- (a) Whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by the competent authority;
- (b) Whenever and so long as any field channel by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water thereof;
- (c) Whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;
- (d) During the periods fixed, from time to time, by the Irrigation Officer of which due notice has been given;
- (e) Whenever there is diminution in the supply of water in the irrigation system due to any natural or seasonal causes and thereby so long as it is necessary to do so;
- (f) Whenever there are floods or heavy rains in the Command Area and thereby so long as it is necessary to do so.

(2) No claim shall be allowed against the Government or Canal Officer or any person authorised by them, for compensation in respect of any damage arising out of—

- (a) deterioration in climate or soil; or
- (b) stoppage or diminution of the supply of water where such stoppage or diminution is due to:—
 - (i) any cause beyond the control of the authority in charge of the irrigation system;
 - (ii) the execution of any repairs, alterations or additions to the irrigation system;
 - (iii) any measures considered necessary by the Canal Officer for regulating the proper flow of water in the field channel or for maintaining the established courses of irrigation; or
 - (iv) circumstances mentioned in clauses (a) to (f) of sub-section (1).

24. *Supply of water for irrigation of one or more crops.*—Where water from an irrigation system is supplied for the irrigation of one or more crops as specified by the Canal Officer, the right to use such water shall be deemed to continue only until such crop or crops shall come into maturity, and to be lawful only in respect of such crop or crops.

25. *Settlement of disputes regarding distribution of water.*—(1) Whenever a dispute arises between two or more land-holders in regard to their natural rights or liabilities in respect of the use or maintenance of field channel, any such land-holder may apply in writing to the Water Distribution Co-operative Society stating the matter in dispute.

(2) On receipt of an application under sub-section (1), the Water Distribution Co-operative Society shall give notice to the other persons interested to appear before it

on a day to be specified in such notice, and shall proceed to enquire into such matter and after the enquiry, the Water Distribution Co-operative Society may try to bring about a compromise between the parties and if such a compromise cannot be brought, it shall, after hearing the parties concerned, pass such an order as it deems fit:

Provided that if any dispute arises between the land holders and the Water Distribution Co-operative Society regarding the sharing of costs to be borne by one or more land-holders, any such land-holder may, after paying the cost apportioned to him by the Water Distribution Co-operative Society, prefer an appeal to the Canal Officer within seven days of such payment, and the Canal Officer shall, after giving an opportunity to the aggrieved land-holders, decide the pro-rata sharing of expenses between the land-holders, and his decision thereon shall be final and binding on all the land-holders.

(3) The Canal Officer within whose jurisdiction the pipe-outlet is situated, may suo motu or on an application made in this behalf by an aggrieved person within fifteen days from the date of the order passed by the concerned Water Distribution Co-operative Societies under sub-section (2), revise such order:

Provided that where the Water Distribution Co-operative Society does not pass an order within fifteen days from the date of receipt of an application under sub-section (1), the Canal Officer may himself pass an order on the matter in dispute.

CHAPTER - VIII

26. Power to specify principles of localisation.—(1) Subject to such rules as may be made in this behalf, the Command Area Development Board may, having regard to resources of land and water, nature of soil, climate and other technical considerations, by an order, specify for each command area, principles of localisation for the purpose of irrigation.

(2) The Command Area Development Board may, having regard to the advances in technology of land and water management and other agronomic practices, alter, from time to time, by an order, the principles of localisation so specified for any command area.

Explanation:—The term “principles of localisation” shall include the prescription of season of the irrigation, the type of irrigation, such as wet, irrigated dry, double crop or single crop, or perennial irrigation.

27. Classification of lands for raising different crops according to availability of water.—Subject to such directions as may be issued from time to time by the Command Area Development Board, the Canal Officer may, in any year, having regard to the quantity of water available in any irrigation system within his jurisdiction, classify, by an order, within such time and in such manner as may be prescribed, lands under the said irrigation system for the purpose of raising such kind of crops on each class of land as may be specified in the order, and regulate the supply of water for irrigation accordingly.

Provided that on an application made to the Command Area Development Board the land holder may be permitted to change the raising of kind of crops:

Provided further that no such charge shall be allowed unless the application for such change relates to the entire holding of the land holder under the said irrigation system.

28. Power to prohibit growing of certain kinds of crops and to regulate the period of sowing and duration of crops.—(1) Whenever the Command Area Development Board is satisfied that for the better cultivation of land and the optimum utilisation of water resources of an irrigation system or for accelerated land development or for any other reasons, it is expedient in the public interest to regulate the cropping pattern, the period of sowing and the duration of crop, then, it may, by notification, make declaration to that effect.

(2) On the making of a declaration under sub-section (1), the Canal Officer may specify, by notification published in such manner as may be prescribed, the kinds of crops that shall not be grown on any land under such irrigation system and the periods of sowing and duration in respect of non-prohibited crops thereof.

(3) On the publication of the notification under sub-section (2), no person shall grow any such crops as is prohibited by the notification on any land under such irrigation system and no person shall sow or plant any other crop at any period or allow such crop to remain beyond the duration specified in respect thereof in such notification.

CHAPTER - IX

29. *Credit facilities to the farmers.*— The Credit-in-charge shall draw up the annual credit requirement of the farmers coming under the Command Area on the basis of recommended cropping pattern. He shall liaison with the Lead Bank and other financial institutions to facilitate timely flow of financial assistance to the needy and eligible farmers during the cropping season for all types of agricultural related activities. In cases where Water Distribution Co-operative Societies are functional, the farmers shall obtain the recommendation from the concerned Society. The Credit-in-charge shall then scrutinise the same and report to the Superintending Engineer C.A.D. who shall then recommend the case to the said financial institution.

CHAPTER - X

30. *Special powers of Command Area Development Board in dealing with the cases of lands falling under command area but left fallow.*— (1) No sooner the particular patch of land in the Command Area is provided with irrigation facility or found technically feasible for irrigation, it shall be obligation of the concerned land-holder to cultivate the said land and he is liable to pay charges at the prevailing water rate, whether or not the water is used by him for irrigation of land.

(2) Except in case where land is in litigation in a court of law, if the land-holder fails to cultivate the above said fallow but cultivable land for a period of two consecutive years, the Command Area Development Board shall have power to levy and recover the water charges of the regulated crop for the given location as per the notification under section 28(1) of this Act and in addition to this, the Command Area Development Board shall also have power to impose fine which shall be revisable every five years, on the land-holder as per the Table here-below and to recover the same as arrears of land revenue.

Provided that if the land holder fails to cultivate such land for further period of two consecutive years the fine shall be twice the amounts indicated in the table.

TABLE

Sr. No.	Category of land	Fine in Rupees to be imposed per irrigation season per hectare.
(1)	(2)	(3)
(1)	Garden Crop	Rs. 4200/-
(2)	Rice (land)/Cereal land	
	(a) Kher	Rs. 1,500/-
	(b) Khajan (Reclaimed)	Rs. 750/-
(3)	(c) Morod	Rs. 1,000/-
(4)	Sugarcane	Rs. 3,500/-
(5)	Vegetables	(Rs. 3,400/-) Rs. 1,500/-
	Pulses/Oil Seeds	Rs. 3,750/-

(3) If the land holder fails to cultivate the land referred to in sub-section (2) for a period of 5 consecutive years, the Command Area Development Board may take over the management of such land on such terms and conditions as may be prescribed.

CHAPTER XI

31. *Funds of the Command Area Development Board.*— (1) The Command Area Development Board shall have and maintain a separate fund to which shall be credited:-

(a) all moneys received by the Command Area Development Board from the Government by way of grants, loans, advances or otherwise;

- (b) grant-in-aid and loans made available by the Central Government for developmental activities in the Command Area under the Central Sector Schemes;
- (c) any other funds provided for taking up any of the various development activities for specified programmes;
- (d) all other funds received by the Command Area Development Board from any other source.

(2) The fund shall be applied for the purpose of the Act in such manner as may be prescribed.

32. *Budget of the Command Area Development Board.*— The Command Area Development Board shall prepare in such form and at such time every year as may be prescribed, a budget for the next financial year showing estimated receipts and expenditure of the Command Area Development Board in respect of the administration of the Act, and shall forward to the Government or such other authority, such number of copies thereof as may be prescribed.

33. *Accounts and audit.*— (1) The Command Area Development Board shall maintain true and proper accounts in consonance with CPWD Code and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed.

(2) The accounts of the Command Area Development Board shall be subject to audit annually by such officer as may be authorised by the Director of Accounts of the Government and as certified by him together with audit report thereof, shall be forwarded annually to the Government.

34. *Annual reports.*— The Command Area Development Board shall prepare for every year a report of its activities under this Act during that year and submit the report to the Government in such form on or before such date as may be prescribed and the Government shall cause the same to be laid before the House of the Legislature.

CHAPTER - XII

35. *Penalties.*— (1) Whoever, voluntarily or without proper authority,—

- (a) damages, alters, enlarges, or obstructs any irrigation system under a pipe outlet;
- (b) interferes with, increases, or diminishes the water supply in or the flow of water from, through, over or under any irrigation system under a pipe-outlet;
- (c) being responsible for maintenance of the irrigation system under a pipe-outlet, neglects to take proper precautions for prevention of wastage of the water therefrom or interferes with the authorised distribution of water therefrom or uses water in an unauthorised manner or in such manner as to cause damage to the adjacent land holding;
- (d) corrupts or fouls, the water of any irrigation system under a pipe-outlet so as to render it less fit for the purpose for which it is ordinarily used;
- (e) destroys, defaces or removes any level marks or water-gauge or any other work or sign fixed by the Command Area Development Board or a public servant;
- (f) opens, shuts or obstructs or attempts to open, shut, or obstruct any sluice or outlet or any other similar contrivance in any irrigation system under a pipe-outlet or drainage system;
- (g) uses water unlawfully or unauthorisedly or agrees to or allows to grow any crop in contravention of any notification under this Act shall, on conviction, be punished with imprisonment which may extend to two years or with fine which shall not be less than one thousand rupees, but may extend to five thousand rupees or with both:

Provided that in the case of a continuing offence, a fine not exceeding one hundred rupees per day shall also be imposed during the period of the continuance of the offence.

(2) While convicting any person under sub-section (1), the Judicial Magistrate may order that the said person shall remove the obstruction or repair the damage, sluice or

outlet or replace the level mark, water gauge or other work in respect of which the conviction has taken place, within a period to be specified in such order. If such person neglects or refuses to obey such orders within the period so fixed, the Command Area Development Board may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person as arrears of land revenue.

36. Liability when person using water unauthorisedly cannot be found.— (1) If water supplied through a field channel is used in any unauthorised manner, and if the person by whose act or negligence such use has occurred cannot be found after such enquiry as the Command Area Development Board may deem sufficient, the Command Area Development Board shall, after giving not less than one month's notice to the holders and occupiers of all lands benefitted thereby and after hearing their representation, if any, make an order for the recovery of such charges as may be prescribed for such use from such holders and occupiers in such proportion as it may deem fit.

(2) All charges for the unauthorised use of water determined under sub-section (1), shall be recoverable as arrears of land revenue.

37. Abetment of offences.— Whoever, abets any offence punishable by or under this Act or attempts to commit any such offence, shall be punished with the penalty provided by or under this Act, for committing such offence.

38. Punishment under other laws not barred.— Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Act:

Provided that no person shall be prosecuted and punished for the same offence more than once.

39. Offences under this Act to be cognizable.— All offences punishable under this Act shall be cognizable and bailable.

40. Power to remove and take into custody person obstructing.— Any Officer or authority in charge of or employed on any irrigation system under a pipe-outlet may remove from the land or any building thereon or may take into custody without a warrant and forthwith hand over to a police officer in-charge of the nearest police station, any person who within his view,—

(a) wilfully damages, alters, enlarges or obstructs any irrigation system under a pipe-outlet; or

(b) without proper authority interferes with the supply or flow of water in or from any irrigation system under a pipe-outlet so as to endanger, damage or render less useful such irrigation system under a pipe-outlet so as to endanger, damage or render less useful such irrigation system under a pipe outlet:

Provided that every person so taken into custody shall be produced before the nearest Magistrate within a period of twenty four hours of such custody excluding the time necessary for the journey from the place of arrest to the court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

41. Payment of reward to informant.— Whenever any person is sentenced with fine under this Act, the Superintending Engineer, Command Area Development Board, shall have power to reward any person who gave information leading to the detection of the offence or to the conviction of the offender, with such amount as he may determine. However, the Superintending Engineer, CAD, shall ensure the secrecy of the identity of the informant.

42. Composition of offences.— (1) Any Officer authorised by the Command Area Development Board may accept from any person who has committed or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Act, or the rules made thereunder, a sum of money not exceeding two hundred rupees, by way of composition for such offence.

(2) On payment of such sum of money, the said person if in custody, shall be released and no further proceedings shall be taken against him in regard to the offence so compounded.

CHAPTER - XIII

43. Obligation of land-holders of land adjacent to Command Areas.— Where, for the safety of an irrigation system under a pipe-outlet in a Command Area and for other technical reasons it is considered necessary to take any conservation measures like contour bunding, drainage and trenching in land adjacent to the lands under the Command Area, the Command Area Development Board shall have powers to take suitable action.

44. Charge leviable.— The Command Area Development Board may levy and collect charges for the maintenance and repairs of irrigation channels or drain channels from the beneficiaries where maintenance of such channels is done by the Command Area Development Board.

45. Fees for service.— The Command Area Development Board may charge such fees as may be prescribed under this Act, for rendering any service to any person.

46. Members of the Command Area Development Board and members of the staff of the Command Area Development Board Offices to be public servants.— Members of the Command Area Development Board and the members of the staff of the Command Area Development Board offices shall, while acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

47. Protection for acts done in good faith.— No suit, prosecution or other legal proceeding shall lie against the Government, the Command Area Development Board or any officer or servant of the Government or of the Command Area Development Board for anything which is in good faith done or purported or intended to be done in pursuance of this Act, or any rule made thereunder.

48. Recovery of dues as arrears of land revenue.— Whenever any sum due to be paid by any land-holder has not been paid within the time specified for such payment, it shall be recoverable with interest at such rates as may be prescribed in the same manner as arrears of land revenue under the law for the time being in force.

49. Offences by companies.— (1) If the person committing an offence under this Act is a Company, the Company as well as every person in charge of, and responsible to the Company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the Company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:— For the purposes of this section,—

(a) “Company” means any body corporate and includes a firm or other association of individuals, and

(b) “director” in relation to a firm means a partner in the firm.

50. Bar of jurisdiction of Civil Courts.— (1) No order passed or proceeding taken by an officer or authority under this Act, shall be called in question in any court in any suit or application and no injunction shall be granted by any court in respect of any action taken or about to be taken by such officer or authority in pursuance of any power conferred by or under this Act.

(2) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purported to be done under this Act, without the previous sanction of the Government.

(3) No Officer or servant of the Government/staff members of Command Area Development Board Offices, shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of execution of duties or the discharge of the functions imposed by or under this Act.

(4) Save as otherwise provided in this Act, no suit shall be instituted against the Government in respect of any act done unless the suit is instituted within six months from the date of the act complained of.

(5) In the case of an intended suit against any Officer or servant of the Government/staff members of Command Area Development Board Offices under sub-section (1), the person intending to sue shall be bound to give the Officer or servant, as the case may be, at least two months notice of the intended suit with sufficient description of the cause of action failing which such suit shall be dismissed.

51. *Power to summon and examine witness.*— Any Officer empowered under this Act to conduct any enquiry may exercise such powers connected with the summoning and examining of the witnesses and the production of documents as are conferred on a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), and any such enquiry shall be deemed to be a judicial proceeding.

52. *Revision.*— (1) The Government may, either suo-motu at any time or on an application made within the prescribed period by any person interested, call for and examine the record relating to any decision or order passed or proceeding taken by the Command Area Development Board or officer subordinate to it under this Act, for the purpose of satisfying itself as to the legality or propriety or regularity of such decision or order or proceedings and if in any case, it appears to it that any such decision, order or proceedings should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly;

Provided that no orders adversely affecting any person shall be passed under this sub-section unless such person has been given an opportunity of making a representation.

(2) The Government may stay the execution of any such decision, order, or proceeding pending the exercise of its powers under sub-section (1).

53. *Power to make rules.*— (1) The Government may, subject to the condition of previous publication in the Official Gazette, by notification, make rules to carry out all or any of the purposes of this Act.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the Government may make rules consistent with this Act generally to carry out the purposes of the Act.

54. *Regulations.*— The Command Area Development Board may, with the previous approval of the Government, after previous publication, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

55. *Directions by Government.*— In the discharge of its functions, the Command Area Development Board shall be guided by such directions and instructions as may be given to it by the Government.

56. *Act to override other laws.*— (1) The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything in consistent therewith contained in any other law for the time being in force or any custom, usage or contract or decree or order of a court or other authority.

(2) For the removal of doubts, it is hereby declared that the provisions of the Goa, Daman and Diu Irrigation Act, 1973 (Act 17 of 1973) and the rules made thereunder shall apply to the extent such provisions are not inconsistent with the provisions of this Act.

57. *Power to remove difficulties.*— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, as occasion requires, do anything not inconsistent with the provisions of this Act which appears to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

LA/B/2121/1997

Report of the Select Committee on Bill No. 22 of 1997.

The Goa Prohibition of Smoking and Spitting Bill, 1997 alongwith the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa on 29-7-97, is hereby published for general information in pursuance of the provisions of Rule 231 of the Rules of Procedure and Conduct of Business of Legislative Assembly.

Panaji, 12th August, 1997.

Bill No. 22 of 1997

A

BILL

to provide for prohibiting smoking and spitting in places of public work or use and in public service vehicles in the State of Goa and to make provision for other matters connected therewith.

COMPOSITION OF THE SELECT COMMITTEE

CHAIRMAN

1. Dr. Wilfred Menezes Mesquita — Minister for Environment

MEMBERS

2. Smt. Fatima D'Sa, M. L. A.
3. Smt. Sangeeta Parab, Minister of State for Education
4. Smt. Victoria Fernandes, M. L. A.
5. Smt. Shashikala Kakodkar, M. L. A.
6. Shri Manohar Parrikar, M. L. A.
7. Shri Pandurang Bhatale, M. L. A.
8. Shri Arecio D'Souza, M. L. A.
9. Shri Sadanand Malik, M. L. A.

SECRETARIAT

1. Shri Ashok B. Ulaman, Secretary Legislature.
2. Shri U. M. Desai, Under Secretary, Legislature.
3. Shri Narvekar, Section Officer, Legislature.
4. Smt. Celiza Fernandes, Sr. Asstt. Legislature.

GOVERNMENT REPRESENTATIVES

1. Dr. G. C. Srivastava — Chief Secretary.
2. Shri B. S. Subbanna—Law Secretary.
3. Dr. N. P. S. Varde— Scientist & Joint Secretary.

REPORT OF THE COMMITTEE

I, the Chairman of the select Committee to which Bill No. 22 of 1997 — The Goa Prohibition of Smoking and Spitting Bill, 1997 was referred, having been authorised by the Committee to submit the report on its behalf present the report with the Bill as amended by the Committee annexed hereto:—

The Bill was introduced in the Legislative Assembly of Goa on 14th July, 1997 and was referred to the Select Committee on 17th July, 1997.

The Committee held its meeting on 22nd July, 1997. The amendments tabled by Dr. Kashinath Jhalmi, Leader of Opposition mainly regarding Prohibition of Advertisements of smoking and chewing tobacco products and prohibition of storage and sale of or distribution of cigarettes etc. near the educational institutions, were

placed before the Committee, and also certain suggestions including that of Dr. S. G. Vaidya, Chairman of the National Organisation of Tobacco Eradication which appeared in the press were also placed before the Committee. The Committee after holding the discussion in detail, decided to incorporate almost all the amendments of Dr. Jhalmi in the Bill. The suggestion to prohibit the sale of cigarettes etc., to persons below the age of 21 years have been accepted by the Committee. The Bill has been accordingly amended by the Committee as annexed hereto.

The Report was considered and adopted by the Committee in its meeting held on 29th July, 1997.

Assembly Hall,
Panaji.

(DR. WILFRED MENEZES MESQUITA)
Minister for Environment
CHAIRMAN

Dated: 29th July, 1997.

(Note.— Deletions made by the Select Committee are shown in square brackets and additions and substitutions made are underlined)

The Goa Prohibition of Smoking, and Spitting Bill, 1997

(Bill No. 22 of 1997)

A

BILL

to provide for prohibiting use of Tobacco in any form and Spitting in places of public work or use and in public service vehicles in the State of Goa and to make provision for other matters connected therewith.

Be it enacted by the Legislative Assembly of the State of Goa in the Forty-eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Prohibition of Smoking and Spitting Bill, 1997

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires.—

- (a) “advertisement” means and includes any notice, circular, wall paper, pamphlets, display on hoardings or any visible representation made by means of any light sound, smoke, gas, writing instruments, stickers, symbol, colours, logo, trade mark/symbol, display on articles like T Shirts, shoes, sportswear, sports, gears caps, carry bags, telephone booths, etc., or any other means which has direct or indirect effect of promoting smoking and/or tobacco chewing and the expression ‘advertise’ shall be construed accordingly;”
- (b) [(a)] “authorised officer” means a person authorised under section 4 of this Act.
- (c) [(b)] “chewing” means chewing of tobacco, gul (tobacco), use of tobacco paste, supari with tobacco, pan masala, zarda, ghutka and the like;
- (d) [(c)] “Goa” means the State of Goa;
- (e) [(d)] “Official Gazette” means the Goa Government Gazette.”

- (f) [(e)] "place of public work or use" means a place declared as such under Section-3 of this Act, and includes auditoria, cinema/conference/seminar halls, hospital buildings, health institutions, amusement centres, restaurants, eating houses, hotel lounges, other waiting lounges, public offices, court buildings, educational institutions, libraries, bus stations/stands, ferry boats, places of worship, beaches, sports stadium and the like which are visited by the general public but does not include other open place; [or any other place declared as such under section 3 of this Act.];
- (g) [(f)] "public service vehicle" means a vehicle as defined under clause (35) of section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988);
- (h) [(g)] "smoking" means smoking of tobacco in any form, whether in the form of cigarette, cigar, beedies or otherwise with the aid of pipe, wrapper, or any other instruments;
- (i) [(h)] "spitting" means voluntary ejection of saliva from the mouth after chewing or without chewing and ejection of mucus from the nose after inhaling snuff or without inhaling;

3. Declaration of places of public work or use.— As soon as may be after the commencement of this Act and thereafter from time to time, the Government may, by notification in the Official Gazette, declare any place to be a place of public work or use in Goa for the purposes of this Act.

4. Power of Government to authorise officers to act under this Act.— (1) The Government may, by notification in the Official Gazette, authorise one or more persons who shall be competent to act under this Act.

(2) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

5. Prohibition of smoking and spitting in places of public work or use.— No person shall smoke or spit in any place of public work or use

6. Prohibition of smoking and spitting in public service vehicles.— Without prejudice to the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), no person shall smoke or spit while travelling in or using a public service vehicle.

"7. Prohibition of advertisement of smoking and chewing.— Notwithstanding anything contained in any other law for the time being in force, no person shall advertise or cause to advertise in any place and on any public service vehicle any material which may directly or indirectly promote smoking or chewing of tobacco or any tobacco product or products containing tobacco even if classified as by any other name."

8. [(7)] Prohibition of sale of cigarettes, etc. to minors.— No person shall sell cigarettes, beedies, chewing tobacco, gul (tobacco), tobacco paste, including tobacco based tooth paste, supari with tobacco, pan masala, zarda, snuff, ghutka or any other such smoking and/or chewing substance containing nicotine and/or tobacco to any person who is below the age of [eighteen] Twenty one years.

9. Prohibition of storage and sale and distribution of cigarettes, etc..— No person shall himself or by any person on his behalf, store, sell or distribute cigarettes, biddies, chewing tobacco, gull (tobacco) tobacco paste, supari with tobacco, pan-masala, jardha, snuff, ghutka or any other such smoking substance or substances containing tobacco within an area of 100 mtrs. around place of worship or any college, school or other educational institutions."

10. [8.] *Display and exhibition of board.*— The owner or manager or incharge of affairs of every place of public work or use shall display and exhibit a board at a conspicuous place or places in and outside the premises visited or used by the general public prominently stating that the place is a "No Smoking and No Spitting Zone" and that "Smoking/Spitting is an Offence".

11. [9.] *Any person who contravenes the provisions of—* (1) sections [5, 6 or 8] 5, 6, 9 or 10 shall be punishable with fine which may extend to one thousand rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two thousand rupees, but which may extend to five thousand rupees.

(2) [section 7] sections 7 and 8 shall be punishable with fine which may extend to one thousand rupees and in case of second or subsequent offence, shall be punishable with imprisonment which may extend to three months, or with a minimum fine of five thousand rupees which may extend to ten thousand rupees, or with both.

12. [10.] *Power to eject violators.*— Any authorised officer or any police officer, not below the rank of a sub-inspector, may eject any person who contravenes any provisions of this Act, from the place of public work or use, and any driver/conductor of a public service vehicle may eject any person who contravanes any provisions of this Act in the public service vehicles, from the public service vehicle.

13. [11.] *Court competent to take cognizance and try offences.*— (1) No court other than the court of a Judicial Magistrate First Class shall take cognizance of, and try an offence under this Act.

(2) No court shall take cognizance of any offence [under this Act] except on a complaint in writing of an authorised officer or an authorised representative of a recognised non-Government organisation devoted to the cause of controlling tobacco use/spitting with respect to offences under sections [5 and 6] 5, 6 and 9 and on a report in writing of a police officer not below the rank of sub-inspector, or an authorised representative of a recognised non-government organisation devoted to the cause of controlling tobacco use/spitting with respect to the offences under sections [7 and 8] 7, 8, 9 and 10.

14. [12.] *Certain offences to be cognizable and bailable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1994), offences under sections [5, 6 and 7] 5, 6, 7, 8, and 9 of this Act shall be cognizable and bailable.

15. [13.] *Summary trial of offences.*— All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

16. [14.] *Power to delegate.*— The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act, may also be exercised by such officer and subject to such conditions, if any, as may be specified therein.

17. [15.] *Composition of offences.*— (1) The Government may, by notification in the Official Gazette, empower the authorised Officer or a police officer not below the rank of sub-inspector to compound any offence committed under this Act on payment of a sum not less than rupees one thousand which may extend upto rupees five thousand [exceeding rupees five hundred] by way of composition for the offence which such person is suspected to have committed.

(2) On payment of such sum to such Officer, the offender if in custody, shall be released and no further proceedings shall be taken against such offender

Department of Personnel

Notification

1/2/82-PER(pt. I)

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, and in supersession of the existing Recruitment Rules for the relevant posts, the Governor of Goa hereby makes the following rules to regulate the recruitment to the Goa General Service, Group 'B' Gazetted post in the Directorate of Fire and Emergency Services, Government of Goa, namely:—

1. *Short title, application and commencement.*— (1) These rules may be called the Government of Goa, Goa General Service, Group 'B' Gazetted post in the Directorate of Fire and Emergency Services, Recruitment Rules, 1996.

(2) They shall apply to the posts specified in column 1 of the Schedule to these rules (hereinafter called as the "said Schedule").

(3) They shall come into force from the date of their publication in the Official Gazette.

2. *Number, classification and scales of pay.*— The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule:

Provided that the Government may vary the number of posts in column 2 of the said Schedule from time to time subject to exigencies of work.

3. *Method of recruitment, age limit and other qualifications.*— The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the said Schedule.

4. *Disqualification.*— No person who has entered into or contracted a marriage with a person having a spouse living or who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service:

Provided that the Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. *Power to relax.*— Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing and in consultation with the Goa Public Service Commission, relax any of the provision of these rules with respect to any class or category of persons.

6. *Saving.*— Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for scheduled castes and other special categories of persons in accordance with the orders issued by the Government from time to time in that regard.

7. These rules are issued in consultation with the Goa Public Service Commission vide their letter No. COM/13/21(1)/96 and No. COM/13/21(2)/96 dated 21-8-1996.

By order and in the name of the Governor of Goa.

S. S. Keshkamat, Joint Secretary (Personnel).

Panaji, 5th August, 1997.

SCHEDULE

Name/ Designation of post	Number of posts	Classification	Scale of pay	Whether selection post or non-selection post	Age limit for direct recruits	Whether the benefit of added years of service is admissible under Rule 30 of CCS (Pension) Rules, 1972	Educational and other qualifications required for direct recruits	Whether age & educational qualifications prescribed for the direct recruits will apply in the case of promoted.	Period of probation, if any	Method of recruitment, whether by direct recruitment or by promotion or by deputation/transfer/contract and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/ deputation/transfer, grades from which promotion/ /deputation/transfer is to be made	If a D. P. C. exists, what is its composition	Circumstances in which Goa Public Service Commission is to be consulted in making recruitment
1	2	3	4	5	6	6(a)	7	8	9	10	11	12	13
Assistant Officer (1996)	1	Goa General Subject	Rs. 2000/-60-	N. A.	Not exceeding 35 years (Relaxable for Government servants in accordance with the orders or instructions issued by the Government).	No <i>Essential:</i> (i) Degree, preferably in Science, from a recognised University with science subject at 10 + 2 level. (ii) Advance diploma from the National Fire Service College or Associate/ Membership Diploma of the Institution of Fire Engineers (U. K.) or equivalent. (iii) 10 years experience in Fire Service, of which 3 years should be in a responsible capacity. (iv) Knowledge of Konkani.	Age: No. Two Educational years. <i>Qualifications:</i> Yes, to the extent of (i) & (ii) in Column (7).	By promotion/Transfer on deputation, failing which by direct recruitment.	Promotion/Transfer on deputation :- (1) Officer under the Central/State Governments and Union Territories. (a) (i) Holding analogous posts; or (ii) with 3 years regular service in the scale of Rs. 1640-2900 or equivalent; (iii) with 8 years service in posts in the scale of Rs. 1400-2300 or equivalent; and (b) possessing the educational qualifications prescribed for direct recruits under Column (7).	Group 'B' D. P. C. consisting of: (1) Chairman/ Member, G. P. S. C. —Chairman. (2) Chief Secretary or his nominee —Member. (3) Administrative Secretary/ Head of Department—Member. (for promotion and confirmation only).	As required under the Goa Public Service Commission (Exemption from Consultation) Regulations, 1988. Consultation with the Goa Public Service Commission is necessary for making direct recruitment, promotion, confirmation, selecting an officer for appointment on deputation and for amending/relaxing any of the provisions of these rules.		

Note:

- (1) The selected candidates will have to fulfil the physical

standards as may be prescribed by the appointing authority in accordance with the norms laid down by the Standing Fire Advisory Council of the Government of India, before appointment.

(2) In case of non-availability of suitable candidates with the knowledge of Konkani, this provision can be relaxed.

Desirable:

Knowledge of Marathi.

(2) The departmental Station Officer with 8 years regular service in the grade shall also be considered and in case he is selected for appointment to the post, the same shall be deemed to have been filled by promotion.

(The departmental officers in the feeder category who are in the direct line of promotion shall not be eligible for consideration for appointment on deputation. Similarly, deputationist shall not be eligible for consideration for appointment by promotion. Period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same organisation / department shall ordinarily not exceed 3 years.